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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,234	06/03/2005	Michael Gunzert	GUNZ3002/FJD	4867

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EXAMINER
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DESTA, ELIAS

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/510,234

Applicant(s)

GUNZERT ET AL.

Examiner

Elias Desta

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/13/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## Detailed Action

### Drawing

1. The drawing is objected to because of the following minor informalities:
  - Fig. 1: Label the boxes as to function.

### Title

2. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: 'Measuring Device for a Process Technology'.

### Claim Objection

3. Claim 24 is objected to because of the following minor informality:
  - Claim 24 depends on a cancelled claim 13. Correction is required.

### Claim rejection – 35 U.S.C. 112

4. Claims 16-30 are rejected under 35 U.S.C. 112, second paragraph, because claims 16 and 25 are indefinite and ambiguous for the purposes of examination and establishing the limitation sought by the applicant. The phrases connected with “and/or” create multiple combinations and arrangement in which a person having ordinary skill in the art would not have known what combinations and limitation to

Art Unit: 2857

assume in order to carry out the claimed invention. In claim 27, it is unclear what is being transferred to the CPU. See MPEP § 2173.05(d).

### Claim rejection – 35 U.S.C. 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 16-21 and 25 are rejected under 35 U.S.C. 102(b) as anticipated by Kruse et al. (U.S. Patent 4,774,956, hereon Kruse).

In reference to claims 16 and 25: Kruse teaches a measuring device for process technology (intragastric probe with a combined pH electrode) in the field of process automation useful for measuring pH value having:

- A central unit (see Kruse, Fig. 1, unit 4) which has at least one central computer;
- A management system provided in the central computer for dynamic management of input components (see Kruse, Fig. 1, control unit 4, and Fig. 2, sample input/output noted on the record tracked).

With regard to claim 17: Kruse further teaches that the execution of application programs on the computer can be managed from the management

system because the instrument in Kruse is a portable system having its own memory, processor and display unit.

With regard to claim 18: Kruse further teaches that the management system includes parameter management system because pH values are the parameters required to carry out the amount required from the infusion pump (see Kruse, Fig. 1, unit 1 and the infusion pump unit).

With regard to claim 19: Kruse further teaches that the management system includes means for error recognition (see Kruse, Fig. 2, 'Error values').

With regard to claim 20: Kruse further teaches that the central computer in the portable instrument device also includes a communication interface, which interacts with the interface component (see Kruse, Fig. 1, unit 6).

With regard to claim 21: Kruse further teaches that the pH-measuring device includes a user interface (see Kruse, Fig. 1, Display Unit).

### Claim rejection – 35 U.S.C. 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kruse et al. (U.S. Patent 4,774,956, hereon Kruse) in view of Ion Industrial (Ion

Art Unit: 2857

Industrial, 'Intelligent Static Neutralizers with Fieldbus Interface for Industrial Networks').

In reference to claims 22-24: Kruse teaches a portable pH-measurement unit having a digital input board for communication with outside units (see Kruse, Fig. 1, unit 5); however, Kruse does not teach that the communication interface includes a field bus interface or internet browser. Ion Industrial specification shows a field bus controller in an industrial network that finds application in diagnostic data transmission (see Ion Industrial, page 1, second figure with network bus).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pH measurement system taught by Kruse and incorporate a field bus network as disclosed in Ion Industrial in order to establish a field bus interface and enable a web base communication between the pH measurement unit and networked computer because the field bus interface would enable the user to transmit pH-measurement data or diagnostic data to remote operator or local operators for possible problems in the measurement unit or data (see Ion Industrial, page 1, First Paragraph).

## Conclusion

9. Citation of pertinent prior art:

- Hatschek et al. (U.S. Patent 5,507,936) teaches member for the formation of at least one electrode and one sensor.

Art Unit: 2857

- Enzer et al. (U.S. Patent 4,436,610) teaches apparatus for measuring electrochemical activity.
- Dunn et al. (U.S. Patent 5,766,432) teaches a pH measuring method and device for monitoring and then correcting for electrode drift.
- Ahn (IEEE Article, 'Comprehensive Oceanographic Monitoring Program in the Arabian Gulf') teaches an integrated, real-time data acquisition of measurement data related to temperature, pH and chloride concentration.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elias Desta whose telephone number is (571)-272-2214. The examiner can normally be reached on M-Th (8:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the


Art Unit: 2857

Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elias Desta  
Examiner  
Art Unit 2857

- e.d.

June 29, 2006

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2857